IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.989 OF 2000

IN

WRIT PETITION NO.2326 OF 1998

...

Industrial Workers Union ...Appellant

v/s.

National Ice & Storage Co.

and anr. ...Respondents

...

Mr.A.M.Patel for the Appellant.

Mr.P.K.Rele with Mr.Piyush Shah & Mr.Amit Gor for the Respondent No.1.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 8TH AUGUST, 2007

P.C.:

1. By this appeal, the Appellant challenges the order dated 18th September, 2000 passed by the

learned single Judge of this court in Writ Petition No.2326 of 1998. By that order the learned single Judge has rejected the Writ Petition filed by the Petitioner. The Petitioner had filed the writ petition challenging the order passed by the Industrial Tribunal dated 10th March, 1998 rejecting the reference made by the appropriate Government for enhancement of pay and other allowances of the workers who are employed by the Respondent No.1.

2. We have heard the learned counsel for both the sides. Perusal of the award shows that after taking into consideration all relevant aspects the Industrial Tribunal held that there is no case made out for grant of any enhancement in pay and allowances. The learned single Judge re-examined the evidence on record and confirmed the findings recorded by the Tribunal.

3. The only submission made before us by the learned Counsel appearing for the Appellant, relying on the judgment of the Supreme Court in the case of Shivraj Fine Arts Litho Works v/s. State Industrial Court, Nagpur, 1978 LAB.I.C. 828, is that the learned single Judge has taken into consideration only the

fact that the Respondent No.1 was suffering loss during the last seven years. According to the learned Counsel, only net loss cannot be the deciding factor. According to the learned Counsel, gross profit has to be taken into consideration.

4. Perusal of the order of the Industrial Tribunal shows that the Industrial Tribunal has appreciated this aspect of the matter and has held that even considering the law laid down by the Supreme Court in the aforesaid Judgement, if the financial position of the employer is examined, it is clear that the employer was making loss and therefore, there is no room to enhance the wages of the workers. It has been found by the tribunal that in fact the employer was paying the wages at the level of the employees working in the printing establishment, where the wages were at the higher level.

5. Taking overall view of the matter, in our opinion, there is no substance in the appeal. Appeal is, therefore, disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)